



4331-84

DEPARTMENT OF THE INTERIOR

Office of the Secretary

[LLWO210000.L1610000]

National Environmental Policy Act Implementing Procedures for the Bureau of Land Management (516 DM 11)

AGENCY: Office of the Secretary, Interior.

ACTION: Notice.

SUMMARY: This notice announces the Department of the Interior's (Department) proposal to revise the National Environmental Policy Act (NEPA) implementing procedures for the Bureau of Land Management (BLM) at Chapter 11 of Part 516 of the Departmental Manual (DM) with a proposed new categorical exclusion (CX) for authorization of the salvage harvest of dead or dying trees.

DATES: Comments must be postmarked (for mailed comments), delivered (for personal or messenger delivery comments), or filed (for electronic comments) no later than

[INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION OF THIS NOTICE IN THE *FEDERAL REGISTER*].

ADDRESSES: The public can review the proposed changes to the DM and the new proposed CX Verification Report online at: <https://tinyurl.com/w8t4jx2>. Comments can be submitted using:

- *BLM National NEPA Register*: <https://go.usa.gov/xvPfT>. Follow the instruction at this website.

- *Mail*: U.S. Department of the Interior, Bureau of Land Management, Attention: WO-210-SLVGCX, 2850 Youngfield Street, Lakewood, CO 80215.

- *Personal or messenger delivery*: U.S. Department of the Interior, Bureau of Land Management, Attention: WO-210-SLVGCX, 2850 Youngfield Street, Lakewood, CO 80215.

FOR FURTHER INFORMATION CONTACT: Heather Bernier, Acting Division Chief, Decision Support, Planning, and NEPA, at (202) 912-7282, or hbernier@blm.gov.

Persons who use a telecommunications device for the deaf (TDD) may call the Federal Relay Service (FRS) at 1-800-877-8339. The FRS is available 24 hours a day, 7 days a week, to leave a message or question with the above individual. You will receive a reply during normal business hours.

SUPPLEMENTARY INFORMATION:

Background

Compliance with NEPA requires Federal agencies to consider the potential environmental consequences of their decisions before deciding whether and how to proceed. The Council on Environmental Quality (CEQ) encourages Federal agencies to use CXs to protect the environment more efficiently by reducing the resources spent analyzing proposals which normally do not have potentially significant environmental impacts, thereby allowing those resources to be focused on proposals that may have significant environmental impacts. The appropriate use of CXs allows NEPA compliance to be concluded, in the absence of extraordinary circumstances that merit further consideration, without preparing either an environmental assessment (EA) or an environmental impact statement (EIS) (40 CFR 1500.4(p) and 40 CFR 1508.4).

The Department's revised NEPA procedures were published in the *Federal Register* on October 15, 2008 (73 FR 61292), and are codified at 43 CFR Part 46. These procedures address policy as well as procedure in order to assure compliance with the spirit and intent of NEPA. Additional Department-wide NEPA policy may be found in the DM, in chapters 1 through 4 of part 516. The procedures for the Department's bureaus are published as chapters 7 through 15 of this DM part 516. Chapter 11 of 516 DM covers the BLM's procedures. The BLM's current procedures can be found at: <https://elips.doi.gov/ELIPS/DocView.aspx?id=1721>. These procedures address policy as well as procedure in order to assure compliance with the spirit and intent of NEPA.

Rationale

Proposed CX number C (10) covers harvest of dead or dying trees impacted by biotic or abiotic disturbances commonly referred to as "salvage harvest" on harvest areas of up to 5,000 acres. Salvage harvest can help to recover economic value from timber, contribute to rural economies, accelerate reestablishment of native resilient forest tree species, and reduce future wildfire fuel loads and hazards to wildland firefighters, the public, and infrastructure from dead and dying trees. This CX would allow the BLM more flexibility to quickly respond to disturbances across larger areas to provide for public and infrastructure safety, reduce hazardous fuel loads that impact firefighter and public safety, and contribute to one of the six principal or major uses of the public lands identified in the Federal Land Policy and Management Act of 1976, which recognizes "the Nation's need for domestic sources of timber and fiber." In addition to analysis through EAs and EISs, the BLM already relies upon its existing CX (C.8) that addresses salvage harvest not to exceed 250 acres and intends to retain that CX; the BLM is

proposing this additional CX to increase its flexibility to respond to disturbances across larger areas. Based on review of the existing CX C.8 as part of this process, the BLM does not intend to pursue removal of the 250-acre CX nor revise that CX to encompass the proposed scope of actions described in this proposal. The BLM sees a need for both CX categories. The 250-acre CX provides a more limited scope of actions that are useful, and the BLM has used the CX about 10 times a year for the last 5 years. The BLM expects existing CX C.8 would still be used for smaller areas where the BLM has no need for the additional tools this proposed CX would provide. Following years of experience in conducting salvage harvest without significant effects, the BLM has identified that establishing a CX for the action is necessary to increase the BLM's flexibility to respond to disturbances across larger areas, while keeping the tailored focus of the action. The BLM has completed review of scientific literature and previously analyzed and implemented actions in the *Verification Report on the results of a Bureau of Land Management analysis of NEPA records and field verification for salvage harvest of timber* (Salvage CX Verification Report), which is incorporated by reference here and summarized in **Justification for Change** below, and has found that the establishment of a CX is appropriate because of the evidence of no significant effects from salvage harvest at the parameters proposed. Establishing the new proposed CX would enable the BLM to ensure a timely process for a timber salvage project prior to a new fire season and in preparation for the subsequent fire season.

Description of Change

The Department proposes to add one CX to the BLM chapter of the Departmental Manual 516 DM 11 at Section, C. Forestry. The language of the proposed new CX citation at 516 DM 11.9 C. (10) Forestry is:

(10) Harvesting dead or dying trees resulting from fire, insects, disease, drought, or other disturbances not to exceed 1,000 acres for disturbances of 3,000 acres or less. For disturbances greater than 3,000 acres, harvesting shall not exceed 1/3 of a disturbance area but not to exceed 5,000 acres total harvest.

(a) Covered actions:

(i) Cutting, yarding, and removal of dead or dying trees and live trees needed for landings, skid trails, and road clearing. Includes chipping/grinding and removal of residual slash.

(ii) Jackpot burning, pile burning, or underburning.

(iii) Seeding or planting necessary to accelerate native species re-establishment.

(b) Such actions:

(i) May include construction of permanent roads not to exceed 1 mile in order to facilitate the covered actions. Permanent roads are routes intended to be part of the BLM's permanent transportation system.

(ii) If a permanent road is constructed to facilitate the covered actions, the segments shall conform to all applicable land use planning decisions for permanent road construction in the land use plan; and if travel management planning has been completed, the route specific designations related to the new segments shall be disclosed.

(iii) May include temporary roads, which are defined as roads authorized by contract, permit, lease, other written authorization, or emergency operation not intended to be part

of the BLM's permanent transportation system and not necessary for long-term resource management. Temporary roads shall be designed to standards appropriate for the intended uses, considering safety, cost of transportation, and impacts on land and resources.

(iv) Shall require the treatment of temporary roads constructed or used so as to permit the reestablishment, by artificial or natural means, or vegetative cover on the roadway and areas where the vegetative cover was disturbed by the construction or use of the road, as necessary to minimize erosion from the disturbed area. Such treatment shall be designed to reestablish vegetative cover as soon as practicable, but at least within 10 years after the termination of the contract.

(v) Shall require inclusion of project design features pertaining to the land use plan decisions providing for protections of the following resources and resource uses in the documentation of the CX:

- (1) Level of snag and downed wood creation/retention, and retention level of live trees;
- (2) Specifications for erosion control features such as water bars, dispersed slash;
- (3) Criteria for minimizing or remedying soil compaction;
- (4) Types and extents of logging system constraints (e.g., seasonal, location, extent, etc.);
- (5) Extent and purpose of seasonal operating constraints or restrictions;
- (6) Criteria to limit spread of weeds;
- (7) Size of riparian buffers and/or riparian zone operating restrictions;
- (8) Operating constraints and restrictions for underburning or pile burning; and
- (9) Revegetation standards for temporary roads.

(c) For this CX, a dying tree is defined as a standing tree that has been severely damaged by forces such as fire, wind, ice, insects, or disease, and that in the judgement of an experienced forest professional or someone technically trained for the work, is likely to die within a few years. Examples include, but are not limited to:

- (i) Harvesting a portion of a stand damaged by a wind or ice event.
- (ii) Harvesting fire damaged trees.

The intent of this CX is to improve the efficiency of routine environmental review processes for the harvest of dead or dying trees impacted by biotic or abiotic disturbances. Each proposed action must be reviewed for extraordinary circumstances that would preclude the use of this CX. The Department's list of extraordinary circumstances under which a normally excluded action would require further analysis and documentation in an EA or EIS is found at 43 CFR 46.215. If a timber salvage project is within the activity described in this CX, then these "extraordinary circumstances" will be considered in the context of the proposed project to determine if they indicate the potential for effects that merit additional consideration in an EA or EIS. If any of the extraordinary circumstances indicate such potential, the CX would not be used, and an EA or EIS would be prepared.

The public is asked to review and comment on the newly proposed CX. To be considered, any comments on this proposed addition to the list of CXs in the DM must be received by the date listed in the **DATES** section of this notice at the location listed in the **ADDRESSES** section. Comments received after that date will be considered only to the extent practicable. Comments, including names and addresses of respondents, will be part of the public record and available for public review at the BLM address shown in the

ADDRESSES section, during business hours, 8 a.m. to 4:30 p.m., Monday through Friday, except holidays. Before including your address, telephone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Justification for Change

The BLM proposes CX C (10) after reviewing existing NEPA analysis and available scientific research on the effects of these types of routine actions over time and over different geographic areas. The BLM has documented in detail the justification for establishing this new CX in the Verification Report, which is incorporated by reference here and available to review in full at the websites shown in **ADDRESSES**.

As described in the Verification Report, over the past three decades, forests in the western United States have experienced landscape-scale mortality events caused by wildfire, insect infestation and disease, drought, and other disturbances. From 2000 to 2017, an average of 6.8 million acres has burned annually in the U.S. (https://www.nifc.gov/fireInfo/fireInfo_stats_totalFires.html). For BLM-managed forests, fire has affected an average of 279,630 acres annually from 2009 to 2018. Insect and disease survey data collected in 2015 by the Forest Health Protection Program of the U.S. Forest Service identified 70 different mortality-causing agents and complexes on 5.2 million acres in the conterminous United States (Potter and Conkling 2017). The BLM assembled data from the U.S. Forest Service Aerial Detection Survey from 2008 to 2017

and found nearly two million acres of forest mortality were observed over that period on BLM lands.

Responsive to these larger, landscape-scale mortalities, the BLM has determined a need to be able to harvest dead and dying trees at larger scales than is currently authorized by the existing CX C.8. Salvage harvest is essential on portions of BLM-administered lands to provide for safety, meet legal mandates for land management, and conform to applicable land use plans. The BLM is pursuing the addition of this proposed CX to serve as a complement to the existing CX, and to provide the suite of actions often necessary when conducting salvage harvest at the scale the proposed CX would allow. This new proposed CX includes higher acreage limitations, but also includes actions to more comprehensively manage salvage harvest operations at a larger acreage scale, including permanent road construction, temporary road construction, and fuels management of harvested areas through jackpot burning and underburning. By including these additional actions for the larger scale of this proposed CX, the BLM would be able to address the full range of needs, including access and post-harvest fuels management, associated with salvage harvesting. Permanent roads are sometimes needed in salvage projects for the reforestation and forest development activities that occur over the years following the harvest activity. The effects of a permanent road are the same whether the road is transporting salvage wood or green wood in a thinning or a regeneration harvest. Since the salvage EAs reviewed for this analysis contained only one project describing a permanent road, the BLM looked at additional timber harvest EAs where permanent roads were included and resulted in findings of no significant impacts. As summarized below, and described in more detail in the Verification Report, the BLM used existing

NEPA analysis and peer-reviewed research to determine the extent of both the actions to include and acreage on which to allow those actions that would ensure significance would not occur.

The BLM's review of the available literature demonstrates that the activities proposed for this new CX would not cause significant environmental effects, whether the activities were to be implemented individually or in combination. As discussed in detail in the Verification Report Methods section, the research informed the development of this CX by providing evidence to suggest the need for the CX, both to facilitate the timely authorization of projects that can realize the long-term benefits that salvage harvest can provide, as well as to take advantage of the effectiveness of project design features to minimize adverse impacts. For example, several studies evaluate post-fire salvage harvest for soil disturbance, soil compaction, soil movement and soil deposition into stream systems. James and Krumland (2018) found that salvage logging with proper practices can reduce erosion when implemented immediately post fire. Research also demonstrates that soil disturbance during salvage operations can be minimized through effective project design. For example, partial harvest and skid trail layout can limit the extent of soil disturbance. Soil microbes have been shown to have no significant difference between sites that were post-fire logged and not logged (Smith et al. 2001).

As discussed in the Methods section of the Verification Report, the BLM currently implements timber salvage sales supported by EAs, EISs, and (since 2007) the existing timber salvage CX (C.8), and conducts post-harvest monitoring on all sales. The BLM has implemented salvage sales in response to insects and disease, windthrow, drought, and wildfires through commercial harvest using helicopter, cable yarding, and

ground-based methods. A sampling of associated NEPA documents were reviewed to determine the scope of environmental consequences anticipated to result from the proposed actions. In the EAs reviewed, no significant individual or cumulative impacts were predicted to result from the kinds of activities included in the proposed CX for salvage harvest, nor were any unanticipated impacts observed after treatments were implemented. Actual impacts were the same as predicted impacts in all cases. There were no instances where any of the projects evaluated in EAs would have required completion of an EIS had these measures not been applied as a feature of the proposed action or alternatives.

The BLM has implemented elements of the salvage actions proposed for this new CX in the current salvage CX and has not found significant impacts or instances where the presence of extraordinary circumstances prevented reliance on the existing salvage CX. In the two circumstances where the BLM completed EISs for salvage harvest, the specific combination of actions proposed and the scale of the proposals warranted analysis through EISs. The scale and scope of the actions proposed for categorical exclusion here are readily distinguishable from those evaluated in the EISs.

All proposed actions and alternatives evaluated in the EAs reviewed included project design features that minimize environmental consequences. Often, through application of locally appropriate project design features, environmental effects are minimized to the level of non-significant, whereby resource issues were eliminated from further analysis due to application of these elements incorporated into project design. Development of lists of standard project design features as required components of this proposed CX would not be appropriate given the variability in specifications by region

and land use planning area. The BLM identifies actions required to manage BLM-administered lands for specific purposes through land use planning as appropriate to the resource conditions and legal framework specific to the planning area and region. The BLM will often also identify project design features in the development of environmental analysis documents that are appropriate to consider when designing actions implementing the land use plan's direction in land use planning documents. All actions approved or authorized by the BLM must conform to the existing land use plan (43 CFR 1610.5-3), including those relying on a CX to comply with NEPA. To capture the project design features appropriate to working in a particular region or planning area, this proposed CX requires specific inclusion of project design features pertaining to the specific environmental considerations that the applicable land use plans require for forestry treatments. Reinforcing that activities covered by the proposed CX must conform to the applicable land use plan and requiring application of the protections specified by the land use plan through project design features developed for the areas required by the CX (section (b)(v) of proposed text) allows the CX to be applied as appropriate in varying site conditions. The BLM proposes through the establishment of this CX to require inclusion of project design features pertaining to the land use planning decisions related to the resources and activities listed in part (b)(v) of the proposed CX to both ensure documentation of conformance and that protective measures required to meet land use planning decisions applicable to the planning/action area are incorporated into the design of any project supported by the proposed CX.

While there are long-term benefits of conducting salvage harvest to reduce fuel loads that result in neutral or no-effect findings, there are documented instances of

adverse, residual environmental consequences associated with implementation of these actions. However, as discussed in the Methods section of the Verification Report, these adverse environmental consequences are not considered individually or cumulatively significant due to low to moderate intensity of the treatments, as discussed, and the limited extent of treatment area relative to the extent and intensity of the disturbed area. The BLM's post-implementation observations align with the literature reviewed and summarized in the Methods section of the Verification Report.

As described in the Verification Report, the BLM has experience analyzing and implementing the harvest of salvage timber in an environmentally sustainable manner and considers the activities described in this proposal to be routine and non-significant. Expediting the immediate removal of dead and dying trees is essential to maximize economic returns as wood deterioration and value begins to drop immediately after the disturbance occurs. Establishment of a new CX covering these actions associated with salvage harvest will facilitate implementation of other BLM land management priorities and will contribute economic benefit to communities by providing timber for the forest product manufacturing sector.

The BLM's experience with implementing and monitoring these types of projects mirrors the scientific literature; taken together, they support establishment of this proposed CX, providing the evidence that this type and scope of action can be categorically excluded from further detailed analysis. As described in detail in the Verification Report, establishment of this proposed new CX would not individually or cumulatively have significant impacts on the human environment, and its use, like that of other administratively established CXs, would be subject to extraordinary circumstances

review. Salvage harvest on the scale and scope that would be supported by this proposed CX is a common, effective tool that BLM uses to meet multiple forest and fuels management objectives as well as human health and safety and economic objectives.

Authorities: NEPA, the National Environmental Policy Act of 1969, as amended (42 U.S.C. 4321 *et seq.*); E.O. 11514, March 5, 1970, as amended by E.O. 11991, May 24, 1977; and CEQ regulations (40 CFR 1507.3).

Stephen G. Tryon,

Acting Director,

Office of Environmental Policy and Compliance.

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